

REMARKS

In the Office Action dated August 10, 2007, claims 1-13 and 16-28 were presented for examination. Claims 2-3 and 19-20 were rejected under 35 U.S.C. §112, second paragraph. Claims 1-13, and 16-28 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Krithivas et al.*, U.S. Patent No. 6,816,963, in view of *Sayles*, U.S. Patent No. 6,549,963.

I. Interview Summary

In response to the Examiner's Interview of October 17, 2007, Applicants' Attorney hereby submits a summary of the interview.

On October 17, 2007, Applicants' Attorney and Examiner Portka met for an in-person interview at the U.S. Patent and Trademark Office. There was no exhibit or demonstration of the invention provided. The claims discussed during the interview included outstanding claim 1-13 and 16-28. The prior art references, *Krithivas et al.* and *Sayles* were discussed as they were the only references in the sole prior art rejection of the outstanding claims in the prior Office Action.

This interview took place following issuance of a Non-Final Office Action issued in response to a Request for Continued Examination (RCE). Applicants' Attorney had requested an interview after submission of the RCE and prior to action by the Examiner, but this request was denied. Accordingly, the interview took place following issuance of a Non-Final Office Action issued after the submission of the RCE.

During the interview, the rejections under 35 U.S.C. §§112 and 103 were discussed, as well as proposals to overcome these rejections. These included the claiming of the details of the multiple descriptors, hierarchy, a node identifier, node identifying number, etc. Applicants have attached an amendment to the claims, and specifically an amendment to the independent claims in view of the discussion during the interview. Accordingly, it is Applicants' position that the amendments presented herein should overcome the rejections under 35 U.S.C. §§ 112, and 103.

II. Rejection Under 35 U.S.C. §112, second paragraph

In the Office Action dated August 10, 2007, claims 2-3 and 19-20 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. More specifically, the Examiner raised an issue with the term “said descriptor” in claim 1 and “said a shared cache descriptor” in claim 19. Applicants have appropriately amended claims 2 and 19 to provided proper antecedent basis. Accordingly, Applicants hereby request that the Examiner remove the rejection of claims 2-3 and 19-20 under 35 U.S.C. §112, second paragraph.

III. Rejection of claims 1-13 and 16-28 under 35 U.S.C. §103(a)

In the Office Action dated August 10, 2007, claims 1-13 and 16-28 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Krithivas et al.* ‘963 in view of *Sayles* ‘963.

Applicants’ remarks pertaining to *Sayles* ‘963 in an earlier communication are hereby incorporated by reference.

Krithivas et al. ‘963 pertains to a processor based system and initialization thereof. The purpose of *Krithivas et al.* is to provide a client machine in a network with up to date boot information. An extensible firmware interface (EFI) provides an interface between the operating system and the firmware. The EFI may be in the form of tables that contain platform related information and boot services. See Col. 3, lines 17-22. A firmware descriptor manifest is built by a sever application and communicated to a client machine so that it may boot with any new and advanced features.

Applicants are not claiming a firmware, a firmware interface, or more specifically an extensible firmware interface (EFI). The firmware of Applicants include multiple descriptors with pointers there between. In addition, the second descriptor includes a number that identifies a path of interconnectivity of a resource within the system topology. See amended independent claims. Support for this amendment is found in the specification on page 7, lines 24-29. This number is separate from a node number. The node identifying number both identifies the

positional placement of a resource within the system topology and enables a context independent access to resources within a node through the topology. See amended claims 1, 13, and 22. There is no teaching in the prior art for a node identifying number as claimed by Applicants. This element was previously placed in claims 4 and 17, where the Examiner notes that the prior art teaches a node identifier. Applicants have now placed this limitation in the independent claims with further claimed elements to distinguish this number from a node number.

Applicants are not merely claiming a node identifier. Rather, Applicants are claiming an identifying number that is present in the second descriptor, which in one embodiment may be a node descriptor data structure, that identifies positional placement of a resource within the system. Applicants have also amended claim 5 and included two new claims 29 and 30, to further claim the structural elements of the node identifying number. Support for these amendments is found in the specification on page 8, lines 1-6.

Furthermore, as noted by the Examiner, *Krithivas et al.* does not teach a second descriptor in the manner claimed by Applicants. See Office Action page 3, paragraph 8. The Examiner employs *Sayles* to teach a firmware with more than one descriptor. However, Applicants are not merely claiming firmware with more than one descriptor. Applicants are claiming firmware that is maintained as a data structure. See amended independent claims. Support for the amendments is found in the specification on page 4, line 21. It is the topological information of the system that is maintained in the data structures of the firmware. *Sayles* at most may be employed to teach more than one descriptor, however, it does not teach or suggest the firmware structure, *e.g.* data structures, as claimed by Applicants. Even *Krithivas et al.* does not teach more than one descriptor in their disclosure. Applicants are claiming firmware that employs data structures to describe the topology of the system.

With respect to the rejection under 35 U.S.C. §103(a), it is clear in the law that the combination of references must teach the invention as claimed by Applicants. As stated earlier, Applicant is claiming a method and system wherein the firmware is maintained as a data structure with multiple topological levels, and employing the structure of the firmware to identify positional placement of a resource within the topology and related latency for accessing the

resource. Neither of the prior art references teaches or suggests structuring the firmware in the manner claimed by Applicants, and utilizing the structure to determine position of a resource within the system topology. Both *Krithivas et al.* and *Sayles* fall short of teaching the elements of Applicants' amended claims. "To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art."¹ It is Applicants' position that *Krithivas et al.* at most teaches a single descriptor without suggestion of any additional descriptors, and the *Sayles* does not teach or suggest the structure of firmware in the form of data structures, better yet multiple data structure with cross references there between. The combination of prior art references as asserted by the Examiner does not teach or suggest the elements of Applicants' claims. Accordingly, Applicants respectfully request that the Examiner remove the rejection and direct allowance of claims 1-13 and 16-28.

IV. Conclusion

Applicants have amended the claims to further distinguish the invention over the prior art. It is Applicants' position that the amendments to the claims presented herein distinguish the invention over the prior art of record. Accordingly, Applicant respectfully requests removal of the rejections set forth under 35 U.S.C. § 112 and 103(a).

Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. Applicants are not conceding in this application that those claims are not patentable over the art cited by the Examiner, as the present claim amendments and cancellations are only for facilitating expeditious prosecution. Applicants respectfully reserve the right to pursue these and other claims in one or more continuations and/or divisional patent applications. Accordingly, Applicants request that the Examiner indicate allowability of the pending claims and that the application pass to issue. If the Examiner believes, for any reason, that personal communication will expedite prosecution of the application, the Examiner is hereby invited to telephone the undersigned at the number provided.

¹ MPEP §2143.03 citing *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

In light of the foregoing amendments and remarks, all of the claims now presented are in condition for allowance, and Applicant respectfully requests that the outstanding rejections be withdrawn and this application be passed to issue.

Respectfully submitted,

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